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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

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|-----------------------------------|---------------------------------------|
| 14 UNITED STATES OF AMERICA, |) ED CR 10-9(A)-VAP |
| |) |
| 15 Plaintiff, |) <u>PLEA AGREEMENT FOR DEFENDANT</u> |
| |) <u>SALVADOR OROZCO HERNANDEZ,</u> |
| 16 v. |) <u>JR.</u> |
| |) |
| 17 SALVADOR OROZCO HERNANDEZ, JR. |) |
| et al. |) |
| |) |
| 18 Defendants. |) |
| |) |

20

21 1. This constitutes the plea agreement between Salvador
22 Orozco Hernandez, Jr. ("defendant") and the United States
23 Attorney's Office for the Central District of California ("the
24 USAO") in the above-captioned case. This agreement is limited to
25 the USAO and cannot bind any other federal, state, local, or
26 foreign prosecuting, enforcement, administrative, or regulatory
27 authorities.
28

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a) At the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to counts one and six of the first superseding indictment ("indictment") in United States v. Salvador Orozco Hernandez, Jr., ED CR 10-9(A)-VAP.

b) Not contest facts agreed to in this agreement.

c) Abide by all agreements regarding sentencing factors contained in this agreement.

d) Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter.

e) Not commit any crime; however, offenses that would be excluded for sentencing purposes under United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not within the scope of this agreement.

f) Be truthful at all times with Pretrial Services, the United States Probation Office, and the Court.

g) Pay the applicable special assessments at or before the time of sentencing unless defendant lacks the ability to pay and submits a completed financial statement (form OBD-500) to the USAO prior to sentencing.

THE USAO'S OBLIGATIONS

3. The USAO agrees to:

a) Not contest facts agreed to in this agreement.

b) Abide by all agreements regarding sentencing factors

1 contained in this agreement.

2 c) At the time of sentencing, move to dismiss count one
3 of the information filed against defendant on May 19, 2010
4 pursuant to Title 21, United States Code, Section 851. Defendant
5 agrees, however, that at the time of sentencing the Court may
6 consider the dismissed count of the information in determining
7 the applicable Sentencing Guidelines range, the propriety and
8 extent of any departure from that range, and the sentence to be
9 imposed after consideration of the Sentencing Guidelines and all
10 other relevant factors under 18 U.S.C. § 3553(a).

11 d) At the time of sentencing, provided that defendant
12 demonstrates an acceptance of responsibility for the offenses up
13 to and including the time of sentencing, recommend a two-level
14 reduction in the applicable Sentencing Guidelines offense level,
15 pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary,
16 move for an additional one-level reduction if available under
17 that section.

18 e) Recommend that defendant be sentenced to a term of
19 imprisonment no higher than the low end of the applicable
20 Sentencing Guidelines range, provided that the offense level used
21 by the Court to determine that range is 32 or higher and provided
22 that the Court does not depart downward in offense level or
23 criminal history category. For purposes of this agreement, the
24 low end of the Sentencing Guidelines range is that defined by the
25 Sentencing Table in U.S.S.G. Chapter 5, part A.

26 f) At the time of sentencing, not oppose an argument by
27 defendant, to the extent applicable, under U.S.S.G. § 5G1.3(c),
28 for a sentence concurrent or partially concurrent to the term of

1 imprisonment imposed by the Superior Court of San Bernardino
2 County in case number FSB059489.

3 NATURE OF THE OFFENSES

4 4. Defendant understands that for defendant to be guilty of
5 racketeering conspiracy, as charged in count one (violation of
6 Title 18, United States Code, Section 1962(d)), the following
7 must be true: (1) an enterprise existed as charged in count one;
8 (2) the enterprise engaged in, or its activities affected,
9 interstate or foreign commerce; (3) the defendant was associated
10 with the enterprise; (4) prior to January 27, 2010 two or more
11 persons reached an agreement or came to an understanding to
12 conduct or participate in the affairs of the enterprise, directly
13 or indirectly, through a pattern of racketeering activity; and
14 (5) the defendant voluntarily and intentionally joined in the
15 agreement or understanding, either at the time it was first
16 reached or at some later time while it was still in existence,
17 and at the time the defendant joined in the agreement or
18 understanding the defendant specifically intended that someone,
19 not necessarily the defendant, would commit two or more
20 racketeering acts as part of a pattern of racketeering activity.

21 a. An "enterprise" includes any individual,
22 partnership, corporation, association, or other legal entity, and
23 any union or group of individuals associated in fact although not
24 a legal entity.

25 b. "Racketeering activity" includes, among other
26 acts: (1) any act or threat involving murder, kidnaping, robbery,
27 extortion, or dealing in a controlled substance, which is
28 chargeable under state law and punishable by imprisonment for .

1 more than one year; (2) any act of witness intimidation in
2 violation of 18 U.S.C. § 1512; and (3) the felonious
3 manufacturing, importing, receiving, concealing, buying, selling
4 or otherwise dealing in a controlled substance (as defined in
5 section 102 of the Controlled Substances Act).

6 c. A "pattern of racketeering activity" is at least
7 two acts of racketeering activity within ten years of each other
8 that have a relationship to each other plus a threat of
9 continuity. Conduct forms a pattern if it consists of criminal
10 acts that have the same or similar purposes, results,
11 participants, victims, or methods of commission, or otherwise are
12 interrelated by distinguishing characteristics and are not
13 isolated.

14 Defendant admits that defendant is, in fact, guilty of this
15 offense as described in count one of the first superseding
16 indictment.

17 5. In order for defendant to be guilty of conspiracy to
18 distribute and possess with intent to distribute at least fifty
19 grams of actual methamphetamine, as charged in count six of the
20 first superseding indictment, in violation of Title 21, United
21 States Code, Section 846, the following must be true: (1)
22 beginning on a date unknown and continuing to on or about
23 January 27, 2010, there was an agreement between two or more
24 persons to commit the crime of distribution or possession with
25 intent to distribute 50 grams or more of actual methamphetamine,
26 as charged in the first superseding indictment; and (2) defendant
27 became a member of the conspiracy knowing of at least one of its
28 objects and intending to help accomplish it.

1 Defendant admits that defendant is, in fact, guilty of this
2 offense as described in count six of the first superseding
3 indictment.

4 6. Moreover, in order for defendant to be subject to the
5 statutory maximum and statutory minimum sentences set forth
6 below, the government must prove beyond a reasonable doubt with
7 respect to count six that defendant conspired to distribute or
8 possess with intent to distribute at least 50 grams of actual
9 methamphetamine.

10 Defendant admits that defendant, in fact, conspired to
11 distribute and possess with intent to distribute at least 50
12 grams of actual methamphetamine, as described in count six of the
13 first superseding indictment.

14 PENALTIES

15 7. Defendant understands that the statutory maximum
16 sentence that the Court can impose for a violation of Title 18,
17 United States Code, Section 1962(d), where the underlying
18 racketeering activity itself carries a maximum term of life
19 imprisonment is: life imprisonment; a five-year period of
20 supervised release; a fine of \$250,000 or twice the gross gain or
21 gross loss from the offense, whichever is greatest; and a
22 mandatory special assessment of \$100.

23 8. The statutory maximum sentence that the Court can
24 impose for a violation of Title 21, United States Code, Section
25 846, involving at least 50 grams of actual methamphetamine is:
26 life imprisonment; a life-time period of supervised release; a
27 fine of \$4,000,000 or twice the gross gain or gross loss
28 resulting from the offense, whichever is greatest; and a

1 mandatory special assessment of \$100.

2 9. Therefore, that the total maximum sentence for all
3 offenses to which defendant is pleading guilty is: life
4 imprisonment; a lifetime period of supervised release; a fine of
5 \$4,250,000 or twice the gross gain or gross loss resulting from
6 the offenses, whichever is greatest; and a mandatory special
7 assessment of \$200.

8 10. The statutory mandatory minimum sentence that the Court
9 must impose for a violation of Title 21, United States Code,
10 Section 846 involving at least 50 grams of actual methamphetamine
11 is: 10-years' imprisonment and a five-year period of supervised
12 release. The statutory mandatory minimum sentence that the court
13 must impose for a violation of Title 21, United States Code,
14 Section 846 involving at least 50 grams of actual methamphetamine
15 committed after a prior conviction for a felony drug offense has
16 become final, as alleged in the information filed pursuant to
17 Title 21, United States Code, Section 851, on May 19, 2010, is:
18 20-years' imprisonment, a ten-year period of supervised release,
19 and a mandatory special assessment of \$100.

20 11. Defendant understands that supervised release is a
21 period of time following imprisonment during which defendant will
22 be subject to various restrictions and requirements. Defendant
23 understands that if defendant violates one or more of the
24 conditions of any supervised release imposed, defendant may be
25 returned to prison for all or part of the term of supervised
26 release authorized by statute for the offense that resulted in
27 the term of supervised release.

28 12. Defendant understands that, by pleading guilty,

1 defendant may be giving up valuable government benefits and
2 valuable civic rights, such as the right to vote, the right to
3 possess a firearm, the right to hold office, and the right to
4 serve on a jury. Defendant understands that once the court
5 accepts defendant's guilty plea, it will be a federal felony for
6 defendant to possess a firearm or ammunition. Defendant
7 understands that the conviction in this case may also subject
8 defendant to various other collateral consequences, including but
9 not limited to revocation of probation, parole, or supervised
10 release in another case and suspension or revocation of a
11 professional license. Defendant understands that unanticipated
12 collateral consequences will not serve as grounds to withdraw
13 defendant's guilty pleas.

14 13. Defendant understands that, if defendant is not a
15 United States citizen, the felony conviction in this case may
16 subject defendant to removal, also known as deportation, which
17 may, under some circumstances, be mandatory. The court cannot,
18 and defendant's attorney also may not be able to, advise
19 defendant fully regarding the immigration consequences of the
20 felony conviction in this case. Defendant understands that by
21 entering a guilty plea defendant waives any claim that unexpected
22 immigration consequences may render defendant's guilty pleas
23 invalid.

24 14. Defendant understands that under 21 U.S.C. § 862a,
25 defendant will not be eligible for assistance under state
26 programs funded under the Social Security Act or Federal Food
27 Stamp Act or for federal food stamp program benefits, and that
28

1 any such benefits or assistance received by defendant's family
 2 members will be reduced to reflect defendant's ineligibility.

3 FACTUAL BASIS

4 15. Defendant and the USAO agree and stipulate to the
 5 "Statement of Facts" attached hereto as "Exhibit A" and
 6 incorporated herein. This statement of facts is sufficient to
 7 support a plea of guilty to the charges described in this
 8 agreement and to establish the sentencing guideline factors set
 9 forth below. It is not meant to be a complete recitation of all
 10 facts relevant to the underlying criminal conduct or all facts
 11 known to either party that relate to that conduct.

12 SENTENCING FACTORS

13 16. Defendant understands that in determining defendant's
 14 sentence the Court is required to consider the factors set forth
 15 in 18 U.S.C. § 3553(a)(1)-(7), including the kinds of sentence
 16 and sentencing range established under the Sentencing Guidelines.
 17 Defendant understands that the Sentencing Guidelines are advisory
 18 only, that defendant cannot have any expectation of receiving a
 19 sentence within the Sentencing Guidelines range, and that after
 20 considering the Sentencing Guidelines and the other § 3553(a)
 21 factors, the Court will be free to exercise its discretion to
 22 impose any sentence it finds appropriate up to the maximum set by
 23 statute for the crimes of conviction.

24 17. Defendant and the USAO agree to the following
 25 applicable Sentencing Guidelines factors:

26 COUNT ONE (18 U.S.C. §§ 1962(d)) 27 (50 grams of actual methamphetamine)

28 Base Offense Level : 32 U.S.S.G. § 2E1.1(a)(2) /
 U.S.S.G. § 2D1.1(c)(4)

COUNT SIX (21 U.S.C. § 846)
(50 grams of actual methamphetamine)

Base Offense Level : 32 U.S.S.G. § 2D1.1(c)(4)

Defendant and the USAO reserve the right to argue that additional specific offense characteristics, adjustments, and departures under the Sentencing Guidelines are appropriate. Defendant understands that defendant's offense level could be increased if defendant is a career offender under U.S.S.G. §§ 4B1.1 and 4B1.2. If defendant's offense level is so altered, defendant and the USAO will not be bound by the agreement to Sentencing Guideline factors set forth above.

18. Defendant understands that there is no agreement as to defendant's criminal history or criminal history category.

19. Defendant and the USAO reserve the right to argue for a sentence outside the sentencing range established by the Sentencing Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7).

WAIVER OF CONSTITUTIONAL RIGHTS

20. Defendant understands that by pleading guilty, defendant gives up the following rights:

- a) The right to persist in a plea of not guilty.
- b) The right to a speedy and public trial by jury.
- c) The right to the assistance of an attorney at trial, including the right to have the Court appoint an attorney to represent defendant at trial. Defendant understands, however, that, despite defendant's guilty pleas, defendant retains the right to be represented by an attorney -- and, if necessary, to

1 have the Court appoint an attorney if defendant cannot afford one
2 -- at every other stage of the proceeding.

3 d) The right to be presumed innocent and to have the
4 burden of proof placed on the government to prove defendant
5 guilty beyond a reasonable doubt.

6 e) The right to confront and cross-examine witnesses
7 against defendant.

8 f) The right to testify on defendant's own behalf and
9 present evidence in opposition to the charges, including calling
10 witnesses and subpoenaing those witnesses to testify.

11 g) The right not to be compelled to testify, and, if
12 defendant chose not to testify or present evidence, to have that
13 choice not be used against defendant.

14 h) Any and all rights to pursue any affirmative
15 defenses, Fourth Amendment or Fifth Amendment claims, and other
16 pretrial motions that have been filed or could be filed.

17 WAIVER OF DNA TESTING

18 21. Defendant has been advised that the government has in
19 its possession the following items of physical evidence that
20 could be subjected to DNA testing: letters. Defendant
21 understands that the government does not intend to conduct DNA
22 testing of any of these items for DNA testing and does not intend
23 to conduct any further DNA testing of those items or any other
24 items. Defendant understands: (a) before entering guilty pleas
25 pursuant to this agreement, defendant could request DNA testing
26 of evidence in this case; and (b) with respect to the offenses to
27 which defendant is pleading guilty pursuant to this agreement,
28 defendant would have the right to request DNA testing of evidence

1 after conviction under the conditions specified in 18 U.S.C. §
2 3600. Knowing and understanding defendant's right to request DNA
3 testing, defendant voluntarily gives up that right with respect
4 to both the specific items listed above and any other items of
5 evidence there may be in this case that might be subject to DNA
6 testing. Defendant understands that by giving up this right: (a)
7 defendant is giving up any ability to request DNA testing of
8 evidence in this case in the current proceeding, in any
9 proceeding after conviction under 18 U.S.C. § 3600, and in any
10 other proceeding of any type; and (b) defendant will never have
11 another opportunity to have the evidence in this case, whether or
12 not listed above, submitted for DNA testing, and will never have
13 an opportunity to employ the results of DNA testing to support a
14 claim that defendant is innocent of the offenses to which
15 defendant is pleading guilty.

16 WAIVER OF APPEAL OF CONVICTION

17 22. Defendant understands that, with the exception of an
18 appeal based on a claim that defendant's guilty pleas were
19 involuntary, by pleading guilty defendant is waiving and giving
20 up any right to appeal defendant's convictions on the offenses to
21 which defendant is pleading guilty.

22 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

23 23. Defendant agrees that, provided the Court imposes a
24 total term of imprisonment within or below the range
25 corresponding to an offense level of 38 and the criminal history
26 category calculated by the Court, defendant gives up the right to
27 appeal all of the following: : (a) the procedures and
28 calculations used to determine and impose any portion of the

1 sentence; (b) the term of imprisonment imposed by the Court; (c)
2 the fine imposed by the court, provided it is within the
3 statutory maximum; (d) the term of probation or supervised
4 release imposed by the Court, provided it is within the statutory
5 maximum; and (e) any of the following conditions of probation or
6 supervised release imposed by the Court: the standard conditions
7 set forth in General Orders 318, 01-05, and/or 05-02 of this
8 Court; the drug testing conditions mandated by 18 U.S.C. §§
9 3563(a)(5) and 3583(d); and the alcohol and drug use conditions
10 authorized by 18 U.S.C.
11 § 3563(b)(7).

12 24. The USAO agrees that, provided (a) all portions of the
13 sentence are at or above the statutory minimum and at or below
14 the statutory maximum specified above and (b) the Court imposes a
15 term of imprisonment of no less than 120 months, the USAO gives
16 up its right to appeal any portion of the sentence.

17 RESULT OF WITHDRAWAL OF GUILTY PLEA

18 25. Defendant agrees that if, after entering guilty pleas
19 pursuant to this agreement, defendant seeks to withdraw and
20 succeeds in withdrawing defendant's guilty pleas on any basis
21 other than a claim and finding that entry into this plea
22 agreement was involuntary, then (a) the USAO will be relieved of
23 all of its obligations under this agreement.

24 EFFECTIVE DATE OF AGREEMENT

25 26. This agreement is effective upon signature and
26 execution of all required certifications by defendant,
27 defendant's counsel, and an Assistant United States Attorney.
28

1 BREACH OF AGREEMENT

2 27. Defendant agrees that if defendant, at any time after
3 the signature of this agreement and execution of all required
4 certifications by defendant, defendant's counsel, and an
5 Assistant United States Attorney, knowingly violates or fails to
6 perform any of defendant's obligations under this agreement ("a
7 breach"), the USAO may declare this agreement breached. All of
8 defendant's obligations are material, a single breach of this
9 agreement is sufficient for the USAO to declare a breach, and
10 defendant shall not be deemed to have cured a breach without the
11 express agreement of the USAO in writing. If the USAO declares
12 this agreement breached, and the Court finds such a breach to
13 have occurred, then: (a) if defendant has previously entered
14 guilty plea pursuant to this agreement, defendant will not be
15 able to withdraw the guilty plea, and (b) the USAO will be
16 relieved of all its obligations under this agreement.

17 COURT AND PROBATION OFFICE NOT PARTIES

18 28. Defendant understands that the Court and the United
19 States Probation Office are not parties to this agreement and
20 need not accept any of the USAO's sentencing recommendations or
21 the parties' agreements to facts or sentencing factors.

22 29. Defendant understands that both defendant and the USAO
23 are free to: (a) supplement the facts by supplying relevant
24 information to the United States Probation Office and the Court,
25 (b) correct any and all factual misstatements relating to the
26 Court's Sentencing Guidelines calculations, and (c) argue on
27 appeal and collateral review that the Court's Sentencing
28 Guidelines calculations are not error, although each party agrees

1 to maintain its view that the calculations in paragraph 17 are
2 consistent with the facts of this case. While this paragraph
3 permits both the USAO and defendant to submit full and complete
4 factual information to the United States Probation Office and the
5 Court, even if that factual information may be viewed as
6 inconsistent with the facts agreed to in this agreement, this
7 paragraph does not affect defendant's and the USAO's obligations
8 not to contest the facts agreed to in this agreement.

9 30. Defendant understands that even if the Court ignores
10 any sentencing recommendation, finds facts or reaches conclusions
11 different from those agreed to, and/or imposes any sentence up to
12 the maximum established by statute, defendant cannot, for that
13 reason, withdraw defendant's guilty pleas, and defendant will
14 remain bound to fulfill all defendant's obligations under this
15 agreement. Defendant understands that no one -- not the
16 prosecutor, defendant's attorney, or the Court -- can make a
17 binding prediction or promise regarding the sentence defendant
18 will receive, except that it will be within the statutory
19 maximum.

20 NO ADDITIONAL AGREEMENTS

21 31. Defendant understands that, except as set forth herein,
22 there are no promises, understandings, or agreements between the
23 USAO and defendant or defendant's attorney, and that no
24 additional promise, understanding, or agreement may be entered
25 into unless in a writing signed by all parties or on the record
26 in court.

27 ///

28 ///


PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

32. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.


AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

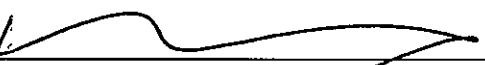
ANDRÉ BIROTTE JR.
United States Attorney


ANTOINE F. RAPHAEL
COREY G. LEE
Assistant United States Attorneys

11/28/11
Date


SALVADOR OROZCO HERNANDEZ, JR.
Defendant


11.28.11
Date


W. ANTHONY WILLOUGHBY
JASON JAMES BUCCAT
Attorneys for Defendant
SALVADOR OROZCO HERNANDEZ, JR.

11/28/11
Date

1 CERTIFICATION OF DEFENDANT


2 I have read this agreement in its entirety. I have had
3 enough time to review and consider this agreement, and I have
4 carefully and thoroughly discussed every part of it with my
5 attorney. I understand the terms of this agreement, and I
6 voluntarily agree to those terms. I have discussed the evidence
7 with my attorney, and my attorney has advised me of my rights, of
8 possible pretrial motions that might be filed, of possible
9 defenses that might be asserted either prior to or at trial, of
10 the sentencing factors set forth in 18 U.S.C. § 3553(a), of
11 relevant Sentencing Guidelines provisions, and of the
12 consequences of entering into this agreement. No promises,
13 inducements, or representations of any kind have been made to me
14 other than those contained in this agreement. No one has
15 threatened or forced me in any way to enter into this agreement.
16 I am satisfied with the representation of my attorney in this
17 matter, and I am pleading guilty because I am guilty of the
18 charges and wish to take advantage of the promises set forth in
19 this agreement, and not for any other reason.

20
21 
22 SALVADOR OROZCO HERNANDEZ, JR.
Defendant

11.28.11
Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am SALVADOR OROZCO HERNANDEZ, JR.'s attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of guilty pleas pursuant to this agreement.


W. ANTHONY WILLOUGHBY
JASON JAMES BUCCAT
Attorneys for Defendant
SALVADOR OROZCO HERNANDEZ, JR.

11/28/11
Date

EXHIBIT ASTATEMENT OF FACTS

Unless otherwise noted, all factual statements contained in this "Statement of Facts" apply to the time periods detailed in the indictment in this case and to all counts defendant is pleading guilty to.

The Mexican Mafia, also known as "La Eme" or "Eme," is the most powerful Hispanic gang within the California prison system and exerts control over the activities of Hispanic street gangs in Southern California conducted outside the prison system through its ability to order the assault or murder of members of those street gangs who are incarcerated. Members of the Mexican Mafia come from the ranks of local Hispanic street gangs.

The Eastside Riva Gang ("ESR") is a street gang that operates in the City of Riverside. ESR is an organization engaged in, among other things, conspiracy to distribute controlled substances, distribution of controlled substances, murder, attempted murder, conspiracy to commit murder, and robbery.

Defendant SALVADOR OROZCO HERNANDEZ, JR., also known as ("aka") "Toro" ("defendant") was a member of the Mexican Mafia.

The Mexican Mafia and ESR are criminal street gangs that consist of a group of individuals associated in fact. Defendant agrees that the Mexican Mafia and ESR are an "enterprise" within the meaning of Title 18, United States Code, §§ 1961, et seq. Defendant further agrees that the activities of the Mexican Mafia and ESR affect interstate and foreign commerce.

1 Members and associates of the ESR pay a tribute,
2 referred to as "taxes" or "rent," to members and associates of
3 the Mexican Mafia in order to maintain control over ESR's
4 territory, and in order to assure protection for ESR members once
5 they enter California state or federal penal institutions. The
6 Mexican Mafia exerts control over Southern California Hispanic
7 street gangs by placing a "green light" on any Southern
8 California Hispanic street gang that fails to pay drug "taxes" to
9 the Mexican Mafia or otherwise follow the Mexican Mafia's
10 instructions. Once a green light is placed on a particular gang,
11 all other Southern California Hispanic street gangs are
12 authorized to assault and murder members of the gang receiving
13 the green light. By paying drug taxes to and otherwise following
14 the dictates of the Mexican Mafia, Southern California Hispanic
15 street gangs such as ESR avoid receiving a green light, which
16 ensures the Eme's protection of ESR members who are incarcerated.

17 Mexican Mafia members, called "carnales" or "brothers,"
18 typically divide the territory of Southern California Hispanic
19 street gangs between them. At any given time, one or more
20 members of the Mexican Mafia has control over ESR's territory and
21 is empowered to receive the drug "taxes" from ESR and to issue
22 orders and instructions to ESR. A Mexican Mafia member with
23 authority over ESR's territory typically enlists the assistance
24 of an ESR member and authorizes that ESR member to act in the
25 name of the Mexican Mafia member. Such authorization by the
26 Mexican Mafia member is known as "giving the keys" to the ESR
27 member. An ESR member who has received the "keys" from a Mexican
28 Mafia member is empowered to collect drug "taxes" for that

1 Mexican Mafia member from ESR members and drug traffickers
2 selling drugs in ESR territory, resolve disputes among ESR
3 members, issue orders to ESR members, and order assaults and
4 murders.

5 ESR is both loyal to and subservient to the Mexican
6 Mafia. ESR members, oftentimes in prison where they have access
7 to contact with incarcerated members of the Mexican Mafia,
8 directed ESR members not in prison to comply with Eme directives
9 at the risk of retribution.

10 As the Mexican Mafia member in control of ESR, defendant
11 issued directives to senior ESR members and appointed "tax
12 collectors" to collect money derived from ESR's criminal
13 activities, including drug distribution in ESR territory.

14 During the time period mentioned in the indictment, within
15 the Central District of California, defendant knowingly and
16 intentionally agreed to conduct, or participate in the conduct
17 of, the affairs of the Mexican Mafia and ESR by facilitating the
18 felonious distribution of controlled substances, namely at least
19 50 grams of actual methamphetamine, in violation of both
20 California law and Title 21, United States Code, Sections
21 841(a)(1), (b)(1)(A) and 846 and by collecting the proceeds (or
22 taxes) from the sale of at least 50 grams of actual
23 methamphetamine. Defendant further agreed that other members and
24 associates of the Mexican Mafia and ESR would commit at least two
25 racketeering acts within ten years of each other, including the
26 distribution of methamphetamine, in the conduct of the affairs of
27 the Mexican Mafia and ESR.

1 Some of the overt acts defendant committed in furtherance of
2 the conspiracies alleged in the counts defendant is pleading
3 guilty to include:

4 a. On or about April 3, 2009, using coded language in a
5 letter to a co-conspirator, defendant told that co-conspirator
6 that a co-defendant was working on behalf of defendant and that
7 those gang members loyal to that co-conspirator should leave the
8 co-defendant alone.

9 b. On or about April 7, 2009, using coded language in a
10 letter to a co-defendant, defendant stated that he (HERNANDEZ) is
11 glad that the co-defendant is in the community providing
12 defendant's associate with the proceeds from drug sales, that he
13 (defendant HERNANDEZ) is aware that the co-defendant had problems
14 with other gang members who questioned the co-defendant's Eme
15 association, and that he (defendant HERNANDEZ) wrote a letter to
16 the individual who was giving the co-defendant problems
17 expressing his (defendant HERNANDEZ's) displeasure with that.

18 Additional Conduct Pertaining to the Methamphetamine
19 Trafficking Conspiracy

20 Beginning on an unknown date and continuing until at least
21 January 27, 2010, within the Central District of California,
22 defendant agreed with other co-conspirators, to distribute and
23 possess with intent to distribute at least 50 grams of actual
24 methamphetamine. At all times relevant to the indictment, it was
25 foreseeable to defendant that at least 50 grams of actual
26 methamphetamine was being distributed by other co-conspirators.
27
28